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The common law rule was that on navigable rivers the riparian proprietor's ownership extended merely to the high-water mark and the test of navigability was the ebb and flow of the tide. 3 *Kent*. 521; *Middleton v. Pritchard*, 3 Scam. (Ill.) 510. Some of the courts in this country have accepted this test of navigability and hold that in all rivers in which the tide does not ebb and flow the riparian proprietor's ownership extends to the thread of the stream. *Jackson v. Hathaway*, 17 Mass. 288; *Gavit v. Chambers*, 3 Ohio, 495. Other jurisdictions, however, have insisted upon a broader test as to navigability and maintain that where rivers are in fact navigable the riparian proprietor's ownership extends only to high-water mark. *Elder v. Burrus*, 6 Humph. (Tenn.) 358; *Pollard v. Hogan*, 3 How. (U. S.) 212.

WITNESSES—COMPETENCY—HUSBAND AND WIFE.—*BIANCHI ET UX V. DEL VALLE*, 42 SOUTHERN 148 (LA.).—*Held*, that a husband cannot be a witness for or against his wife in a matter affecting her paraphernal rights.

At early common law husband and wife were unable to testify for or against each other, this being based principally on public policy. *Wilson v. Sheppard*, 28 Ala. 623.

The common law disability has been removed and to-day a husband may be a witness for his wife in many cases. *Laudy v. Kansas City*, 58 Mo. App. 141; *Evans v. Evans*, 15 Pa. 572. However, it has universally been held that a husband cannot testify for wife when the suit concerns her separate estate. *Berlin v. Cantrell*, 33 Ark. 611; *Palmer v. Henderson*, 20 Ind. 297.

WRONGFUL DEATH—ACTION BY NON-RESIDENT ALIEN.—*ATCHISON, T. & S. F. R. R. CO. V. FAJARDO, ET AL.*, 86 PAC. 301.—*Held*, that non-resident parents can recover for death of son under Kansas statute, *Code Civ. Proc.*, Section 422, granting right of action to personal representative for wrongful death of the deceased if the latter could have maintained an action had he lived.

Unless the statute in plain terms excludes non-resident beneficiaries they are entitled to sue as if they were residents. 8 *Am. & Eng. Ency. of Law*, 905. An administrator appointed in Colorado can sue for wrongful death in Kansas. *Kan. Pac. R. R. Co. v. Cutter*, 16 Kan. 569 (1876). Resident of Missouri can recover for wrongful death of husband, a resident of Missouri, in Kansas. *Chicago, R. I. & P. R. R. v. Mills*, 57 Kan. 687 (1897). Similar statute entitles resident of Italy to bring an action. *Pittsburgh, C. C. & St. L. R. v. Naylor*, 73 Ohio St. 115. A non-resident alien can bring an action for wrongful death. *Szymanski v. Blumenthal, et al.*, 52 Atl. 347 (Del.); *Alfson v. Bush Co.*, 75 N. E. 230. A resident of another state can sue. *Denick v. Central R. Co.*, 103 U. S. 11; *Higgins v. Central New Eng. & W. R. Co.*, 24 N. E. 534; *Jeffersonville, Madison, etc., R. Co. v. Hendricks, Admr.*, 41 Ind. 48. Exemption to "every person who has a family" may be claimed by a non-resident. *Sproul v. McCoy*, 26 Ohio St. 577. A statute purporting to apply to everyone may be taken advantage of by non-resident aliens. *State v. Smith*, 12 Pac. 121.